

[Advisory Opinion 1992-4]
ADVISORY OPINION 92-30

The Ethics Commission has reviewed your request for an advisory opinion dated April 27, 1992. The Commission understands that the facts forming the background of your request are as follows:

You have been asked to serve as a member of the Board of Trustees of Suburban Hospital. You will not receive compensation for your services as a member of the Board of Trustees.

Suburban Hospital has at least one contract with Montgomery County; this contract is administered by the Department of Addiction, Victim, and Mental Health Services.

You are affiliated with the Department of Finance. You supervise the Department of Finance employees who: (1) disburse funds to County contractors upon presentation of proper documentation by the department administering the contract; and (2) certify the availability of funds under Section 11B-5 which is a prerequisite to the County entering into any contractual obligation.¹ The Department of Finance, however, does not directly administer any contracts with Suburban Hospital.

You have asked if the Montgomery County Public Ethics Law prohibits you from accepting a position as a member of the Board of Trustees of Suburban Hospital.

Section 19A-12 provides that a public employee must not engage in any other employment unless the employment is approved by the Ethics Commission. Section 19A-4(g) defines employment as, “. . . engaging in an activity for compensation.” Accordingly, the Ethics Commission concludes that you may accept a non-compensatory position as a member of the Board of Trustees of Suburban Hospital under the ethics law.

Section 19A-11(a)(2)(A) provides that a public employee must not participate in any matter that involves an entity of which the employee is a trustee. Accordingly, if you accept a position as a member of the Board of Trustees of Suburban Hospital, you must not participate as a public employee in a matter that involves the hospital unless permitted by a waiver issued by the Ethics Commission.

If you have any questions regarding this advisory opinion, please contact the Ethics Commission.

Date of Issue:6/3/92

¹ Unless otherwise indicated, section references are to the Montgomery County Code (1984).